

US 10/717 304

Attorney Docket No. 03-43

REMARKS

Claims 18, 19 and 23 have been amended. The application includes four independent claims and twelve total claims. A fee of \$200 is due for one extra independent claim.

Allowable Subject Matter

Claims 18, 19 and 23 have been rewritten as independent claims including all limitations of the base claim and any intervening claims. The Examiner had indicated that these claims would be allowable if rewritten as independent claims. Applicants submit claims 18, 19 and 23 are allowable.

102 Rejection – Watamatsu

1. Propriety of Final Rejection

Applicants believe the final rejection is improper. A final rejection is pending of claims 16, 17, 20-22, 24-26 as anticipated by US 4,361,352 to Watamatsu. Watamatsu is newly discovered prior art. All prior rejections were cancelled. A final rejection is improper where the Examiner bases the rejection on a new ground that was not caused or necessitated by the Applicants' prior response. In their previous response, Applicants made only one amendment to clarify that the top portion comprised "first and second impact zones." Applicants believe the new rejection is directed to the original subject matter that was not changed in the previous office action. Watamatsu does not teach "first and second impact zones" and is simply cumulative prior art similar to that

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disclosed in the prior office action. The final rejection is improper because no amendment by the Applicants necessitated a new search or new grounds for rejection.

2. Substantive arguments over Wakamatsu

Claims 16, 17, 20-22, 24-26 are rejected as anticipated by US 4,361,352 to Watamatsu. Claim 16 is the only independent claim and the remaining claims stand or fall with the independent claim.

Wakamatsu recites a block 24 comprising a compressible material. The block is interposed between a reinforcement member 25 and a shield 22. Unlike the present invention, the block is not in register with an impact zone of the shield where the shield is located substantially at a height corresponding to a tibia of an adult pedestrian.

As explained in the specification, a reinforcement member of a typical automobile would be above knee height of an adult pedestrian. Wakamatsu does not disclose any height for the reinforcement member 25, so the front end of the block in Wakamatsu would not be in register with the tibia of an adult pedestrian.

In contrast, claim 16 of the present invention explicitly include this limitation and includes a bottom portion set back from a top portion 22 of the shield. Anticipation exists only when a single, prior art reference teaches each of the claimed elements, arranged as in the claim, expressly or inherently as interpreted by one of ordinary skill in the art. Wakamatsu lacks both a reinforcement member at the knee height of an adult pedestrian and the recited bottom portion. Wakamatsu does not include at least recited two limitations of the present invention and cannot anticipate claims 16 or its dependent claims.

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103 Rejection – Wakamatsu & Ohno

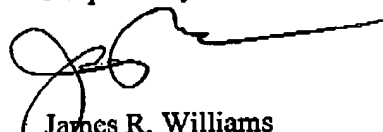
The Examiner has rejected claim 27 as obvious in light of Wakamatsu and US 5,378,031 to Ohno. Claim 27 ultimately depends from claim 16, and is allowable as a dependent claim of an allowable claim.

Applicants respectfully request an advisory action based on the above arguments and, pending payment of the \$200 fee for one extra independent claims, submit the application is now in condition for allowance. Early and favorable action is earnestly solicited.

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Respectfully submitted,



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